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UNCLAS SAN JOSE 002508

SIPDIS

SENSITIVE

WHA/CEN

EB FOR WCRAFT, BLAMPRON

E FOR DEDWARDS

WHA/EPSC FOR KURS, LGUMBINER

STATE PASS TO USTR FOR RVARGO, NMOORJANI, AMALITO

E.O. 12958: N/A

TAGS: [ETRD](#) [ECPS](#) [ECON](#) [PREL](#) [PGOV](#) [SOCI](#) [CS](#)

SUBJECT: NEW COSTA RICAN LAW MAY IMPEDE IMPORTS OF U.S. PRODUCTS

Ref: 04 San Jose 669

1. (SBU) Summary. The October 25, 2005, Official Gazette published a law, effective immediately, that may effectively result in the prevention of exporting U.S. products to Costa Rica. Post is communicating with the GOCCR at the Ministerial level, importers, and representatives from other countries to effect the immediate suspension and eventual repeal of the law. See action request in paragraph 6. End Summary.

2. (SBU) The new law appears to be the codification of a requirement that the GOCCR tried to enact via Customs regulations approximately two years ago. (Note: The specific requirement is for importers to provide a copy of the customs declaration from the country of origin to the Costa Rican Customs Agency.) At that time Post explained to the GOCCR via a diplomatic note that U.S. law does not permit such an exchange of information to foreign countries. Consequently, the GOCCR decided to temporarily suspend this requirement. For the apparent purpose of reducing fraudulent customs declarations, the legislative Assembly on October 25 codified this requirement in law with immediate effect. Post is communicating with importers and representatives from other countries to protest this new law.

3. (SBU) On the previous attempt to enforce this regulation in April 2004, Post and industry personnel explained to the GOCCR that the information contained on a Shipper's Export Declaration (SED) was confidential (reftel). The confidentiality provision is contained in the Foreign Trade Statistics Regulations, Title 15, Code of Federal Regulations, Part 30.91 (see link for USG finding <http://www.census.gov/foreign-trade/regulations/ftsrletters/notice-02172004.html>). That provision states that the information on the SED may not be disclosed to anyone except the U.S. Principal Party in Interest or their agent and only when a copy is needed to comply with U.S. official legal and regulatory export control requirements. At that time, the Costa Rican Customs Agency agreed to suspend the requirement.

4. (SBU) For unknown reasons and without notification, the regulation was resurrected and went into effect on October 25, 2005. Post is investigating this matter and is communicating to the GOCCR our position on this issue and its impact on importation of U.S. products. (Note: approximately 50 percent of imports into Costa Rica are U.S. products).

COMMENT

5. (SBU) Representatives from several companies that import U.S. products contacted us about this issue. Their initial reaction is that the implementation of this law could effectively prevent the importation of U.S. products. This situation places importers of U.S. goods in an untenable situation in that it is impossible to comply with the laws of the U.S. regarding sharing the SED with foreign countries and the laws of Costa Rica that explicitly requires submission of a copy of the customs declaration from the country of origin.

ACTION REQUEST

6. (SBU) Post has already sent a letter dated October 28 to the Minister of Finance, who is responsible for customs, with copies to the Minister of Foreign Affairs and Minister of Foreign Trade, in which Charge asked for the "immediate suspension" of the law published on October 25. In addition, we are sending a diplomatic note reiterating our diplomatic note of April 16, 2004 (WHA/CEN has a copy) which

had asked Costa Rica "to suspend this law on a permanent basis for exports from the United States, so as not to disrupt trade between our two countries." Finally, Charge is seeking an immediate meeting with the Minister of Finance (none has been scheduled yet). Post requests instructions from the Department on additional actions that should be taken to quash this law as soon as possible and permanently.

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